

REMARKS

Applicants acknowledge receipt of the Examiner's Office Action dated October 11, 2007. Claims 1, 3, 5-8, 10, 12-15, 17, 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Federwisch, U.S. Patent No. 6,889,228 (Federwisch) and in view of Patterson et al., "SnapMirror: File System Based Asynchronous Mirroring for Disaster Recovery" (Patterson). In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration and reexamination of all pending claims.

As noted, each of the independent claims stands rejected under 35 U.S.C. §103 as being unpatentable over Federwisch and Patterson. The Office Action asserts that column 6, lines 15-55 and Figure 2 of Federwisch teaches nearly all the limitations of the independent claims. The Office Action then asserts that Federwisch employs "SnapMirror" software to perform cascaded replication but does not explicitly teach that said first frequency is higher than said second frequency as required by the claims. Thereafter, the Office Action alleges that Patterson teaches this missing limitation citing page 2, column 1, first paragraph in support thereof. Applicants have reviewed these cited sections of Federwisch and Patterson and can find no teaching or fair suggestion of all the limitations of the independent claims.

Each of the independent claims recites asynchronously replicating data between data volumes of a first pair of nodes and periodically replicating data between volumes of a second pair of nodes. The Office Action alleges that these limitations can be found within column 6, lines 15-55 and Figure 2 of Federwisch. Column 6, lines 15-55 and Figure 2 of Federwisch fail to teach or fairly suggest these limitations either alone or in

combination of the remaining limitations of the independent claims. Rather, column 6, lines 15-55 and Figure 2 teach cascaded mirroring of data. Figure 2 is a block diagram of repeated mirroring of “filers.” Column 6, lines 15-55 makes clear that Federwisch propagates data by mirroring the data from a first filer to a second filer, and then mirroring the data from the second filer to a third filer. In Figure 2, Filer A10 contains two volumes, Volume 1 and Volume 2. Filer B11 mirrors both of these volumes from Filer A10. Filer C12 mirrors Volume 1 from Filer B11, and Filer D13 mirrors Volume 1 from Filer C12, etc. It is clear from Figure 2 and the description of column 6, lines 15-55 that all the volumes in boxes 11-19 are cascaded mirrors of the volumes in block 10. However, column 6, lines 15-55 do not state that any of the mirrors contained in a first pair of blocks are the result of asynchronous replication while mirrors contained in a second pair of blocks 11-19 are the result of periodic replication. As such, Applicants traverse the assertion that column 6, lines 15-55 and Figure 2 of Federwisch teach or fairly suggest most of the limitations of the independent claims.

Each of the independent claims recite periodic replication between a first pair of data volumes at a first frequency and periodic replication between another pair of data volumes at a second frequency, wherein said first frequency is higher than said second frequency. The Office Action points to page 2, column 1, first paragraph of Patterson as teaching this limitation. However, this cited section of Patterson describes how an update frequency between a pair of mirrors can be adjusted. This cited section of Patterson does not teach or fairly suggest a first update frequency between a first pair of data volumes and a second frequency between a second pair of data volumes, let alone that one frequency is higher than the other.

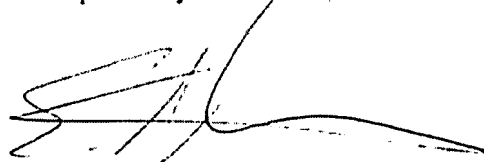
The remaining claims depend directly or indirectly from independent Claims 3, 10, or 17. Insofar as these independent claims have been shown to be patentably distinguishable over the cited sections of Federvisch and Patterson, it follows that the remaining claims are likewise patentably distinguishable.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5093.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to Deposit Account 502306.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Eric A. Stephenson', with a long horizontal flourish extending to the right.

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